

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

In re

PATRIOT COAL CORPORATION, *et al.*,

Debtors.<sup>1</sup>

Chapter 11

Case No. 12-51502-659  
(Jointly Administered)

Re: ECF Nos. 4618, 4619

**ORDER APPROVING SETTLEMENT WITH THE ACE COMPANIES**

Upon the motion dated September 10, 2013 (the “**Motion**”)<sup>2</sup> of Patriot Coal Corporation, Heritage Coal Company LLC and Pine Ridge Coal Company, LLC (collectively, the “**Plaintiff Debtors**”), for entry of an order pursuant to sections 363(b) and 105(a) of Title 11 of the United States Code (the “**Bankruptcy Code**”), and Rule 9019(a) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”); and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334; and consideration of the Motion and the requested relief being a core proceeding that the Bankruptcy Court can determine pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided in accordance with the Order Establishing Certain Notice, Case Management and Administrative Procedures entered on March 22, 2013 [ECF No. 3361]; and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the relief

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<sup>1</sup> The Debtors are the entities listed on Schedule 1 attached to the Motion. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors’ Chapter 11 petitions.

<sup>2</sup> All capitalized terms not otherwise defined herein shall have the meanings set forth in the Motion or the Settlement, as applicable.

requested in the Motion being in the best interests of the Plaintiff Debtors and their respective estates and creditors; and the Plaintiff Debtors having articulated good, sufficient and sound business justifications and compelling circumstances for the Settlement; and the settlement and compromise reflected by the Settlement being fair, reasonable and equitable to all of the Parties; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED that the relief requested in the Motion is hereby granted as set forth herein; and it is further

ORDERED that the Settlement as set forth in the Motion is hereby approved pursuant to Bankruptcy Rule 9019 and sections 105(a) and 363(b) of the Bankruptcy Code; and it is further

ORDERED that the Debtors are authorized to execute and deliver any documents or other instruments that may be necessary to consummate the resolution contemplated by the Settlement; and it is further

ORDERED that the Debtors are authorized to take and perform such other actions as may be necessary or appropriate to implement and effectuate the Settlement and the relief granted in this Order; and it is further

ORDERED that, upon payment of the Settlement Payment by the ACE Companies, the Plaintiff Debtors will dismiss with prejudice all of their claims against the ACE Companies in the Boone County Insurance Coverage Action, including dismissal with prejudice and release of any bad faith, improper claims handling, and

similar claims, and all claims for past, present and future defense costs and attorney's fees; and it is further

ORDERED that the ACE Companies agree to waive and dismiss any past, present and future claims for contribution, subrogation, set off and similar relief against the Plaintiff Debtors, the Plaintiff Debtors' other insurers, or any other entities that were parties to the Boone County Insurance Coverage Action or the Boone County Well Water Litigation. The ACE Companies' right to assert claims for contribution, subrogation, set off and similar relief in response to any claim filed against them by any other insurer that was or is a party to the Boone County Insurance Coverage Action, including any rights of the ACE Companies against a reinsurer, retrocessionaire, or similar entity, are reserved; and it is further

ORDERED that, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the Released Claims shall be and are hereby deemed to be transferred to the ACE Companies, free and clear of any and all claims and interests of all persons with any interest in, to and with respect to the Released Claims, whether arising prior to, during or subsequent to these Chapter 11 cases or imposed by agreement, understanding, law, equity or otherwise; *provided, however*, that nothing in this Order shall affect the rights of the Debtors and the ACE Companies under the Settlement; and it is further

ORDERED that pursuant to sections 105(a) and 363 of the Bankruptcy Code, all persons who or that have held or asserted, who or that hold or assert, or who or that may in the future hold or assert any claim of any kind or nature against any of the ACE Companies for, based upon, arising out of, falling within the scope of, derived from, attributable in any way to or concerning the Released Claims whenever or wherever

arising or asserted (including all claims in the nature of or sounding in tort, contract, warranty or any other theory of law, equity or admiralty), shall be and hereby are permanently barred, stayed, restrained and enjoined from commencing, or otherwise proceeding or taking any action against any of the ACE Companies or any other person or entity for the purpose of directly or indirectly collecting, recovering or receiving payments from any ACE Company with respect to any such claim or interest; and it is further


ORDERED that the transactions contemplated by the Settlement, including without limitation the transfer of the Released Claims to the ACE Companies free and clear of all claims and interests, are undertaken by the ACE Companies in good faith, as that term is used in section 363(m) of the Bankruptcy Code. Accordingly, the reversal or modification on appeal of the authorization to consummate the transfer of the Released Claims and the transactions contemplated by the Settlement shall not affect the validity of the transfer of the Released Claims to the ACE Companies, unless such authorization is duly stayed pending such appeal. The ACE Companies are purchasers in good faith of the Released Claims and shall be entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code; and it is further

ORDERED that the failure to specifically include any particular provision of the Settlement in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Settlement be authorized and approved in its entirety; and it is further

ORDERED that notwithstanding the possible application of Bankruptcy Rule 6004(h) or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that, notwithstanding the possible applicability of Bankruptcy Rules 4001(d), 7062, 9014, or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that proper, timely, adequate, and sufficient notice of the Motion has been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules, and no other or further notice of the Motion or the entry of this Order shall be required. Motion to Expedite Hearing is Granted.

  
KATHY A. SURRETT-STATES  
Chief United States Bankruptcy Judge

DATED: September 27, 2013  
St. Louis, Missouri  
jjh

**Order prepared by:**  
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